

Message Text

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ACTION IO-10

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TAGS: PFOR, UN, SHUM, SW

SUBJ: JOINT SWEDISH-DUTCH PLANS FOR ANTI-TORTURE RESOLUTION
AT 30TH UNGA

REF: STATE 189478

1. IT IS OUR UNDERSTANDING THAT THE MEETING CALLED BY DUTCH
MISSION FOR AUGUST 13 IS DESIGNED TO DISCUSS THE DRAFT RES
PROPOSED BY THE DUTCH AND SWEDES. THEY WILL ALSO WISH TO TAKE
UP OTHER ASPECTS OF THE QUESTION OF HOW THE FIFTH CONGRESS
CAN INSURE FOLLOW-UP ON RES 3218 (XXIV).

2. DRAFT RES TO BE DISCUSSED FOLLOWS:

FIFTH UN CONGRESS ON PREVENTION OF CRIME AND TREATMENT OF
OFFENDERS

FIFTH UN CONGRESS ON PREVENTION OF CRIME AND TREATMENT OF
OFFENDERS,

RECALLING GA RESES 3059 (XXVIII) AND 3218 (XXIX) ON TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN
RELATION TO DETENTION AND IMPRISONMENT,
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RECOMMENDS THE GA TO ADOPT THE FOLLOWING DECLARATION ON PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT:

"THE GA,

CONSIDERING THAT, IN ACCORDANCE WITH PRINCIPLES PROCLAIMED IN CHARTER OF UN, RECOGNITION OF INHERENT DIGNITY AND OF EQUAL AND INALIENABLE RIGHTS OF ALL MEMBER OF HUMAN FAMILY IS THE FOUNDATION OF FREEDOM, JUSTICE AND PEACE IN THE WORLD,

CONSIDERING THAT THESE RIGHTS DERIVE FROM INHERENT DIGNITY OF THE HUMAN PERSON,

CONSIDERING ALSO THE OBLIGATION OF STATES UNDER CHARTER OF UN TO PROMOTE UNIVERSAL RESPECT FOR, AND OBSERVANCE OF, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,

HAVING REGARD TO ART 5 OF UNIVERSAL DECLARATION OF HUMAN RIGHTS AND ART 7 OF INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, BOTH OF WHICH PROVIDE THAT NO ONE MAY BE SUBJECTED TO TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT,

ADOPTS THIS DECLARATION ON PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AS A GUIDELINE FOR ALL STATES AND OTHER ENTITIES EXERCISING EFFECTIVE POWER.

ARTICLE 1: FOR PURPOSE OF THIS DECLARATION, TORTURE MEANS ANY ACT, BY WHICH SEVERE PAIN OR SUFFERING, WHETHER PHYSICAL OR MENTAL, IS DELIBERATELY INFLICTED ON A PERSON, EITHER FOR PURPOSE OF OBTAINING FROM HIM OR THIRD PERSON INFORMATION OR CONFESSIONS OR FOR PURPOSE OF PUNISHING HIM FOR AN ACT HE HAS COMMITTED OR IS SUSPECTED OF HAVING COMMITTED. IT IS GENERALLY AN AGGRAVATED FORM OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND AS SUCH INCLUDES TREATMENT WHICH IS GROOPLY HUMILIATING AND SERIOUS VIOLATIONS OF A PERSON'S CORPORAL INTEGRITY.

ARTICLE 2: ANY ACT OF TORTURE OR OTHER CRUEL, INHUMAN OR UNCLASSIFIED

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DEGRADING TREATMENT OR PUNISHMENT IS AN OFFENCE TO HUMAN DIGNITY AND SHALL BE CONDEMNED AS A DENIAL OF PRINCIPLES OF THE CHARTER OF UN AND AS VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS PROCLAIMED IN UNIVERSAL DECLARATION OF HUMAN RIGHTS.

ARTICLE 3: NO STATE MAY ALLOW OR TOLERATE TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT. EXCEPTIONAL CIRCUMSTANCES SUCH AS STATE OF WAR OR THREAT OF WAR,

INTERNAL POLITICAL INSTABILITY OR ANY OTHER PUBLIC EMERGENCY MAY NOT BE INVOKED AS JUSTIFICATION OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 4: EACH STATE SHALL, IN ACCORDANCE WITH PROVISIONS OF THIS DECLARATION, TAKE EFFECTIVE MEASURES TO PREVENT TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT FROM BEING PRACTISED WITHIN ITS JURISDICTION.

ARTICLE 5: PROHIBITION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT SHALL BE GIVEN PARTICULAR ATTENTION IN TRAINING OF POLICE AND RELATED LAW ENFORCEMENT PERSONNEL AND OF OTHER PUBLIC OFFICIALS WHO MAY BE RESPONSIBLE FOR DETAINEES. THIS PROHIBITION SHALL ALSO, WHERE APPROPRIATE, BE INCLUDED IN SUCH GENERAL RULES OR INSTRUCTIONS AS ARE ISSUED IN REGARD TO DUTIES AND FUNCTIONS OF STAFF OF INSTITUTIONS WHERE DETAINEES ARE KEPT.

ARTICLE 6: EACH STATE SHALL CONTINUOUSLY KEEP UNDER REVIEW INTERROGATION METHODS AND TREATMENT OF DETAINEES IN ITS TERRITORY, WITH A VIEW TO PREVENTING ANY CASES OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 7: EACH STATE SHALL ENSURE THAT AN ACT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IS PUNISHABLE OFFENCE UNDER ITS LAW, WHETHER PERPETRATOR IS PUBLIC OFFICIAL OR PRIVATE INDIVIDUAL. SAME SHALL APPLY IN REGARD TO ACTS WHICH CONSTITUTE PARTICIPATION, COMPLICITY IN, OR INCITEMENT TO TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 8: WHENEVER THERE IS REASONABLE GROUND TO BELIEVE THAT AN ACT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
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MENT OR PUNISHMENT HAS BEEN COMMITTED, THE COMPETENT AUTHORITIES OF THE STATE CONCERNED SHALL EX OFFICIO PROCEED TO AN IMPARTIAL INVESTIGATION. IF SUSPICION IS CONSIDERED TO BE WELL-FOUNDED, CRIMINAL PROCEEDINGS SHALL BE INSTITUTED AGAINST OFFENDER OR OFFENDERS.

ARTICLE 9: ANY PERSON WHO ALLEGES TO HAVE BEEN SUBJECTED TO TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT SHALL HAVE RIGHT TO HAVE HIS CASE IMPARTIALLY EXAMINED BY COMPETENT AUTHORITIES OF STATE CONCERNED. IF ALLEGATION IS CONSIDERED TO BE WELL-FOUNDED, CRIMINAL PROCEEDINGS SHALL BE INSTITUTED AGAINST OFFENDER OR OFFENDERS.

ARTICLE 10: WHERE IT IS PROVED THAT AN ACT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT HAS BEEN

COMMITTED, VICTIM SHALL BE AFFORDED REDRESS AND COMPENSATION IN ACCORDANCE WITH NATIONAL LAW.

ARTICLE 11: ANY STATEMENT WHICH PERSON HAS MADE AS RESULT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT BEING USED AGAINST HIM MAY NOT BE INVOKED AS EVIDENCE AGAINST HIM IN ANY PROCEEDINGS.

ARTICLE 12: ALL STATES SHALL COOPERATE IN IMPLEMENTING THIS DECLARATION. WHERE APPROPRIATE, REGIONAL BODIES MAY BE SET UP FOR PURPOSE OF ASSISTING STATES IN ELABORATING RULES OR STANDARDS OR IN INVESTIGATION CASES OF ALLEGED VIOLATIONS OF PRINCIPLES OF THIS DECLARATION."

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